



August 29, 2013

## **EX PARTE PRESENTATION**

Ms. Marlene H. Dortch Secretary Federal Communications Commission 445 12<sup>th</sup> Street, SW Washington, DC 20554

Re: Ex Parte Presentation in GN Docket No. 12-268, Expanding the Economic and Innovation Opportunities of Spectrum through Incentive Auctions; WT Docket No. 12-357, Service Rules for the Advanced Wireless Services H Block—Implementing Section 6401 of the Middle Class Tax Relief and Job Creation Act of 2012 Related to the 1915-1920 MHz and 1995-2000 MHz Bands; GN Docket No. 13-185, Amendment of the Commission's Rules with Regard to Commercial Operations in the 1695-1710 MHz, 1755-1780 MHz, and 2155-2180 MHz Bands

Dear Ms. Dortch:

Pursuant to Section 1.1206 of the Commission's rules, 47 C.F.R. § 1.1206, DISH Network Corporation ("DISH") submits this letter summarizing a meeting on Tuesday August 27, 2013 with Commissioner Ajit Pai; Matthew Berry, Chief of Staff for Commissioner Pai; Nicholas Degani, Legal Advisor, Wireline; and Mike Beirne, Law Clerk. Present on behalf of DISH were Jeffrey Blum, Senior Vice President and Deputy General Counsel; Mariam Sorond, Vice President, Technology Development; David Zufall, Vice President, Wireless Development; Alison Minea, Director and Senior Counsel; and Hadass Kogan, Associate Corporate Counsel.

#### 600 MHz BAND PLAN

During the meeting, DISH urged adoption of the broadcast incentive auction band plan originally proposed by the Commission (the "NPRM Band Plan"), with the targeted modifications DISH previously identified (the "Down from 51 without Supplemental Downlink ("SDL")" plan). Claims that the record reflects "industry consensus" are premature at this time; indeed, even parties who claim a "consensus" exists are independently advocating for different variants of the "Down from 51" band plan. DISH urged the Commission to reject any claims that routine technical concepts such as intermodulation and harmonics should justify limiting the amount of valuable low-band spectrum for auction. Intermodulation and harmonics exist in

<sup>1</sup> See Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions, *Notice of Proposed Rulemaking*, 27 FCC Rcd. 12357, 12399-402 ¶¶ 119-126 (2012).

<sup>&</sup>lt;sup>2</sup> See DISH Network Corporation Reply Comments, GN Docket No. 12-268 (June 28, 2013).

multiple operational bands and have well-understood, feasible mitigation solutions. Neither intermodulation nor harmonics has ever served as a basis to limit the amount of spectrum available to the industry to provide broadband or cellular service and should not now be a basis to limit the availability of low-band spectrum in the 600 MHz auction.

DISH distributed the attached presentation, which illustrates the differences between some of the proposed band plans. DISH explained that the "Down from 51 without SDL" plan presents the best approach to achieve the Commission's goals of maximizing auction participation and ensuring the 600 MHz spectrum is efficiently utilized. As a result, this band plan will maximize the total revenue to be achieved at auction.

Auction Participation: DISH's proposed "Down from 51 without SDL" plan – which includes designating a common paired downlink and uplink block – will prevent low-band spectrum from being designated as SDL, thus ensuring that carriers of all size are motivated to participate in the 600 MHz auction. Because smaller carriers without low band spectrum holdings will not be able to efficiently utilize low-band SDL, the market-based incentives for smaller carriers to bid are lower for low-band SDL spectrum compared to paired spectrum. Thus, a 600 MHz band plan will best promote participation by all carriers if it ensures evenly paired uplink spectrum will be available in every market.

In addition, DISH's paired approach will give carriers increased certainty and predictability in the global standards setting process, the Third Generation Partnership Project ("3GPP"), thereby increasing the industry's willingness to invest. In order to successfully deploy SDL, carriers must create customized SDL carrier aggregation combinations at 3GPP based on their particular spectrum holdings, which will (i) increase the complexity associated with creating a device ecosystem; and (ii) undermine interoperability in this spectrum. A paired approach facilitates the adoption of a common 3GPP band, resulting in better standards harmonization and economies of scale for handsets and other equipment.

Spectrum Utilization: DISH's "Down from 51 without SDL" plan increases the current and future availability of low-band paired spectrum, an essential resource for new entrants and regional and local operators seeking to grow their business. As DISH has explained, this approach maximizes the amount of usable broadband spectrum; complies with the 2012 Spectrum Act's statutory mandate against excessive guard bands; and leaves open the possibilities for further, future expansion and harmonization.<sup>3</sup>

**Revenue Maximization**: Because the "Down from 51 without SDL" plan will lead to increased participation and bring the largest amount of paired and fungible spectrum to market, it provides the Commission with the best path forward to maximize revenue to be gained from the 600 MHz auction.

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<sup>&</sup>lt;sup>3</sup> *Id.* at 1-2.

*Interference Mitigation:* As DISH has previously explained,<sup>4</sup> the Commission should reject claims of both intermodulation and harmonics interference presented by opponents.<sup>5</sup> DISH has provided extensive analysis showing that the claims of both intermodulation and harmonics interference are exaggerated, and the "Down from 51 without SDL" plan is unlikely to create interference that cannot be easily mitigated by modern user equipment.<sup>6</sup> More importantly, such issues are not specific to the 600 MHz band; other bands have similar issues and there are technical solutions to resolve them.<sup>7</sup>

### SPECTRUM IN THE AUCTION PIPELINE

During the meetings, DISH reiterated its ongoing desire to enter the wireless market, including potential plans to efficiently deploy its AWS-4 spectrum. With regard to the various spectrum proceedings currently pending at the Commission, DISH explained that it supports taking a holistic approach to the upcoming spectrum auctions – including the auction of the H Block, 600 MHz spectrum, and AWS-3 bands. DISH discussed its desire to work with the Commission to determine the best ways to optimize this spectrum, as well as AWS-4. DISH shares the Commission's goals of freeing up as much spectrum for auction as possible, maximizing revenue for FirstNet and the United States Treasury, and ensuring spectrum is efficiently utilized.

DISH explained that, given the current regulatory requirements for H Block and AWS-4, it is unlikely DISH will choose to meaningfully participate in the upcoming auction of the H Block. In addition, DISH explained that the Commission's recent proposal to designate the lower J Block (2020-2025 MHz) for uplink use would make future J Block operations vulnerable to significant interference from adjacent Federal government and Broadcast Auxiliary Service ("BAS") users above 2025 MHz.<sup>8</sup>

Respectfully submitted,

/s/ Jeffrey H. Blum

<sup>5</sup> See AT&T Inc. Comments, GN Docket. No 12-268, pp. 24-30 (Jan. 25, 2013); Qualcomm Incorporated Comments. GN Docket No. 12-268, pp. 7-13 (Jan. 25, 2013).

<sup>&</sup>lt;sup>4</sup> *Id.* at 5-7.

<sup>&</sup>lt;sup>6</sup> See DISH Network Corporation Reply Comments, GN Docket No. 12-268, pp. 8-10 (March 12, 2013). See also DISH Network Corporation Reply Comments, GN Docket No. 12-268, pp. 5-7 (June 28, 2013).

<sup>&</sup>lt;sup>7</sup> See T-Mobile Comments, GN Docket No. 12-268, DA 13-1157, p.7, FN 14 & p. 9, FN 20 (June 14, 2013).

<sup>&</sup>lt;sup>8</sup> See Amendment of the Commission's Rules with Regard to Commercial Operations in the 1695-1710 MHz, 1755-1780 MHz, and 2155-2180 MHz Bands, *Notice of Proposed Rulemaking*, GN Docket No. 13-185, FCC 13-102, ¶ 35 (rel. July 23, 2013). See also Letter from Jeffrey H. Blum, DISH Network, to Marlene H. Dortch, Secretary, FCC, WT Docket Nos. 12-70 and 04-356; ET Docket No. 10-142, Attachment: S Band Interference from 2025-2110 MHz (Sept. 17, 2012).

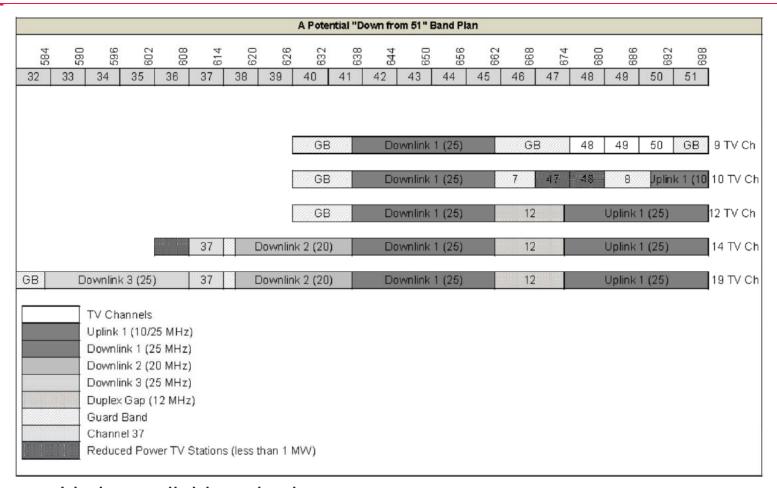
## Jeffrey H. Blum

cc:

Ajit Pai Matthew Berry Nicholas Degani Mike Beirne

Attachment

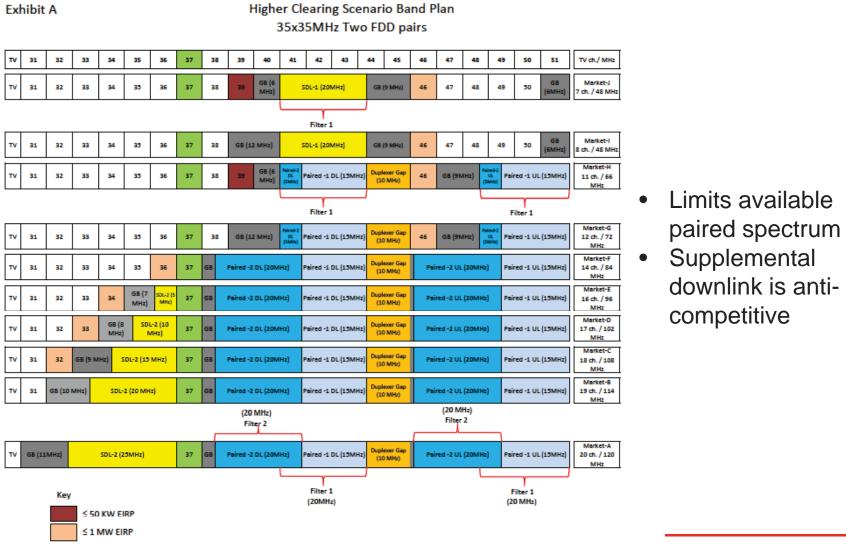
# AT&T's Proposal<sup>1</sup>



- Limits available paired spectrum
- Supplemental downlink is anti-competitive



# Verizon Wireless' Proposal<sup>2</sup>





# DISH's Proposed "Down from 51 without Supplemental Downlink" Plan

